

Abstract

Legal regulation of franchising with respect to intellectual property protection aspects

The aim of the submitted thesis is to analyse the phenomenon of franchising as an instrument of commercialisation of intellectual property rights, assessment of the importance of these rights to existence and functioning of the system, instruments of its protection as well as the dynamics of the relationship between the franchisor and the franchisees in relation to these rights.

The work consists of four topical sections. The first one is focused on franchising in general terms. It emphasises the internal differentiation of the phenomenon and presents the basic types of franchise systems, we might come across. Subsequently it strives for theoretical definition of the term by means of comparison.

The second section of the work is devoted to the term of intellectual property. This chapter is introduced by a brief classification of the rights subordinated to the term which is followed by a discussion on significance of these rights to franchise systems. Subsequently the focal point is moved to the issues of trademark law and know-how protection, which are, in my opinion, from the franchising standpoint crucial.

The third section of the work deals with trademarks, without aspiring on comprehensiveness of the presented commentary in general terms. The key theme of this chapter is the license relationship between the franchisor and the franchisee. Implications of the license relationship are analysed also within the discussion on trademarks' functions and rights of their owners. The composition of this chapter takes into account the fact, there are numerous foreign franchise systems operating on the Czech market, resp. Czech entrepreneurs expand on foreign markets by means of franchising. Attention is therefore paid e.g. to the issues of registration of a word trademark expressed in a foreign language or to the legal regulation of sub-license through which master-franchise system is built.

The final section of the work tackles the issue of know-how. The chapter is introduced by a theoretical delimitation of the term which is followed by its distinguishing against trade secret. Further, the work explains the nature of legal acts through which the franchisant is conferred with the right to exploit franchisor's know-how and the means

of communication of know-how to the franchisant. As the work acknowledges the know-how protection is only possible if an effective contractual mechanism is established, in its conclusion it analyses typical contractual provision incorporated in franchise agreements for this purpose.